

TOWN OF AMHERST  
LITIGATION STATUS/BILLING REPORT  
(Beginning July 1, 2007 and ending December 31, 2008)

FEBRUARY 5, 2009

I. LITIGATION

1. Wayne J. Griffin Electric, Inc. v. Amherst Fire Department and Hadley Fire Department  
Western Housing Court, Case No. 07 CV 1178  
(#0004) [\$93]

Complaint filed in July, 2007, pursuant to G.L. c.148A, appealing the citation issued by the Fire Department (and upheld by the Municipal Hearing Officer) for failure to obtain necessary permit for work on a fire protection system at the UMass Central Heating Plant.

2. Seymour Epstein and Alice Epstein v. Planning Board for the Town of Amherst and Paul Cole  
Hampshire Superior Court, C.A. No. 2007-00139  
(#0009) [\$3,007]

Complaint filed in July, 2007 by abutters to the property at 1194 West Street, appealing the Planning Board's subdivision approval, per G.L. c.41, §81BB, and site plan approval, per G.L. c.40A, §17, for a proposed 11-unit cluster subdivision, Apple Brook.

3. Seymour Epstein and Alice Epstein v. Amherst Conservation Commission and Town of Amherst  
Hampshire Superior Court, C.A. No. 2007-00177  
(#0008) [\$23,839.76]

Complaint filed in August, 2007, per G.L. c. 249, §4 (certiorari), by abutters to property located at 1194 West Street, appealing the Conservation Commission's issuance of an Order of Conditions for a proposed 11-unit cluster subdivision, Apple Brook.

4. Paul Cole v. Amherst Conservation Commission and Town of Amherst  
Hampshire Superior Court, C.A. No. 2008-00130

(#0040) [\$1,302]

Complaint filed in June 2008, per G.L. c. 249, §4 (certiorari), by the owner of property located at 1194 West Street, the site of the proposed Apple Brook Cluster Subdivision, seeking review of the Conservation Commission's Determination of Applicability for the property.

5. John Boothroyd, Thaddeus Dabrowski, Konnie Fox, Gina Fusco, Douglas Lowing, Steven Toutant, Sean Werle, Maura Whalen v. Amherst Conservation Commission and Town of Amherst  
Hampshire Superior Court, C.A. No. 2007-00273  
(#0023) [\$6,090.91]

Complaint filed in December, 2007, per G.L. c. 249, §4 (certiorari), by abutters challenging the Conservation Commission's October, 2007 Determination of Applicability for 12 Longmeadow Drive, HAP, Inc.'s proposed Chapter 40B development.

6. The Trustees of Hampshire College v. Town of Amherst and Amherst Zoning Board of Appeals  
Hampshire Superior Court, C.A. No. 2008-00005  
(#0024) [\$232.50]

Complaint filed in January, 2008 appealing the Zoning Board of Appeals' grant of a special permit to Edward and Peter Kosakowski for a flag lot for a parcel of land on West Bay Road.

7. Town of Amherst, by and through its Board of Health v. Harmony Realty Trust, Eric H. Bert and David T. Keenan  
Western Housing Court, No. 08 CV 1301  
(#0028) [\$12,304.30]

This is an action seeking to enforce an Order to Correct Sanitary Code Violation and an Order of Condemnation the Board issued to David Keenan and Eric Bert for 28 Shays Street.

8. Clarendon National Insurance Company v. Amherst Fitness, Inc. d/b/a Coppermine Tanning Salon, Webster House Condominium, Allied Fire

Protection, Inc., Joanne Delong, Heartland Tanning, Inc., M.J. Moran, Inc. and Peter Earle

Hampshire Superior Court, C.A. No. 2005-00263  
(#0030) [\$8,292.75]

This is litigation involving multiple private parties concerning a fire at 30 Boltwood Walk in July, 2005.

9. Richard Cohen, Edward Change, Levern Thelen and Catharine Porter v. Planning Board of Amherst and New Genesis Foundation, Inc.

Land Court, Misc. Case No. 220380  
(#0033) [\$511.46]

Complaint filed in August, 1995 appealing the Planning Board's grant of site plan approval to co-defendant New Genesis Foundation, Inc. for a proposed church in the Meadowbrook subdivision.

10. Chris Allison, Jean Allison, Heather Colson, Lance Davis, Carol Gray, Nick Thaw and Avril Wellman v. Conservation Commission and Town of Amherst

Hampshire Superior Court, C.A. No. 2006-00012  
(#0048) [\$5,006]

Complaint filed in January, 2006, per G.L. c. 249, §4 (certiorari) and G.L.c. 231A (declaratory judgment), challenging the Commission's November, 2005 Order of Resource Area Delineation for property owned by Levi-Nielsen Company at South East Street.

11. Eugene J. Borowski, individually, and Eugene J. Borowski, Manager of A&L Lashway, LLC v. Charles Mann, Ray Mann, W.D. Cows, Inc., Constructive Enterprises, Inc., Amherst Zoning Board of Appeals and Town of Amherst

Hampshire Superior Court, C.A. No. 2008-0209  
(#0051) [\$651]

Complaint filed in October, 2008 appealing the Zoning Board of Appeals' grant of a special permit to create three flag lots for property at Owen Drive.

12. Joanne Jones, Lance Davis, Nicholas Thaw and Heather Colson v. Board of Appeals of the Town of Amherst and the Levi-Nielsen Company, Inc.

Hampshire Superior Court C.A. No. 2008-0234  
(#0052) [\$201.50]

Complaint filed in November 2008 appealing the grant of a special permit for a proposed 17-unit planned unit residential development at 650 South East Street.

13. Heather Colson, Lance Davis, Carol Gray and Nick Thaw v. Amherst Conservation Commission and the Town of Amherst  
Hampshire Superior Court C.A. No. 2008-00230  
(#0053) [\$201.50]

Complaint filed on November 7, 2008, per G.L. c.249, §4 (certiorari), appealing the Conservation Commission's Amended Order of Conditions, issued under the Town's Wetlands Protection By-law, for the Levi-Nielsen residential project on South East Street.

## II. INSURANCE/OTHER COUNSEL

1. Klaucke v. Daly  
U.S. District Court, Case No. 07 CV 30155  
(#0011) [\$124]

Complaint filed in August, 2007 by UMass student against police officer alleging violation of civil rights arising out of an incident in May 2007 when plaintiff was asked by Officer Daly to produce identification showing he is 21 years old. The Town is being defended by insurance counsel in this matter.

2. Lanre Thomas v. Town  
(#0012) [\$139.50]

Claim arising out of alleged drowning incident in Town pool. As of September, 2007, this claim was being settled by the Town's former Counsel.

3. Cylvanna Elgadi, a minor, by Josielou C. Amascual, her parent and next friend v. Ciaran Dillon-Davidson, ppa Virginia Dillon v. Town of Amherst and School Committee of the Town of Amherst  
Hampshire Superior Court, C.A. No. 2006-00269  
(#0014) [\$77.50]

Plaintiff's First Amended Complaint, dated November 17, 2007, alleges that on October 15, 2004 Defendant Dillon-Davidson negligently hit Plaintiff in the face with a bowling ball during physical education class at Crocker Farm Elementary School, causing injury to Plaintiff's teeth. The

Town and School Committee's involvement in this case stems from a Third Party Complaint filed by Defendant Dillon-Davidson in March, 2007, alleging that Plaintiff's injuries, if any, were the result of the negligence of the School Department and staff.

4. Miriam Dayton v. Town of Amherst  
Hampshire Superior Court, C.A. No. 2001-00192  
(#0032) [\$1,164.60]

Complaint filed in August, 2001 claiming that the operation of the Town landfill (now closed) on Belchertown Road constituted a nuisance, interfered with Plaintiff's enjoyment of her property and reduced the value of her property.

5. Lilyan Waxman, as she is General Partner of Amshrew Associates, a Limited Partnership v. Amherst Housing Review Board and Town of Amherst  
Northampton District Court, C.A. No. 2868 (88)  
(#0049) [\$3,472]

Complaint filed in May, 1988 by plaintiff owner and operator of rental apartments known as Brandywine Apartments on Brandywine Drive appealing a decision of the former Housing Review Board reducing the rents charged by plaintiff. At the Town Manager's request, Kopelman and Paige prepared a petition to the Court to re-direct the funds to be used to supplement the Town's fuel assistance program.

6. David Crowe v. Michelle Chandler  
Hampshire Probate Court, Case No. 05D0302DV1  
(#0047) [\$1,100.50]

Advise Veterans' Agent in relation to private divorce litigation seeking records of a veteran.

### III. LABOR

1. IAFF, Local 1764 v. Town of Amherst (Fire Health Arbitration)  
AAA, Docket No. 1139-01570-06 (Medical Insurance)  
(#0017) [\$790.50]

This demand for arbitration was filed at the American Arbitration Association by the IAFF alleging that the Town violated the terms of the Collective Bargaining Agreement in the manner in which insurance contributions were assessed between the Town and bargaining unit members.

2. IAFF, Local 1764 v. Town of Amherst (Fire Health ULP)

Division of Labor Relations, Docket No. MUP-06-4696  
(#0018) [\$2,743.50]

This cause of action was filed by the fire union at the Division of Labor Relations alleging that the calculation of health insurance benefits was instituted by the Town unilaterally and without bargaining with the Union.

3. SEIU, Local 888 v. Town of Amherst (Choiniere Termination)  
AAA, Docket No. 1139-00304-08  
(#0027) [\$7,387.90]

This Petition for Arbitration filed by the SEIU alleges that the Town violated the Collective Bargaining Agreement when it terminated Mr. Choiniere.

4. William J. Koski v. Amherst Police League, Town of Amherst and [former] Town Manager  
Hampshire Superior Court, C.A. No. 05-104  
(#0029) [\$325.50]

This action filed by a former police officer against the Union and the Town resulting from his termination alleges, both in Superior Court and at the Division of Labor Relations, that the Union has violated its duty of fair representation.

5. Amherst Fire Fighter Union, Local 1764 v. Town of Amherst (Fire Captain Arbitration)  
AAA, Docket No. 1139-00753-08  
(#0039) [\$2,859.27]

This Petition for Arbitration filed by the fire union alleges that the Town violated various provisions of the Collective Bargaining Agreement in the manner in which fire captains were assigned to an administrative schedule.